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COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF STATE  
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS

**F I N A L M I N U T E S**

MEETING OF:

**STATE BOARD OF OPTOMETRY**

TIME: 10:36 A.M.

Held at

**PENNSYLVANIA DEPARTMENT OF STATE**

2601 North Third Street

One Penn Center, Board Room C

Harrisburg, Pennsylvania 17110

as well as

**VIA MICROSOFT TEAMS**

Thursday, May 19, 2022

State Board of Optometry  
May 19, 2022

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BOARD MEMBERS:

- Luanne K. Chubb, O.D., F.A.A.O., Chairperson
- Arion R. Claggett, Acting Commissioner, Bureau of Professional and Occupational Affairs
- John A. Godfrey, O.D., Vice Chair
- Kimberly F. Boyer, O.D., Secretary
- Tyler Ritchie, Deputy Attorney General, Consumer Protection Member
- Jeffrey B. Becker, O.D.
- Denise T. Wilcox, O.D., Ph.D.
- Perry C. Umlauf, O.D. - Absent

BUREAU PERSONNEL:

- Ariel E. O'Malley, Esquire, Board Counsel
- Paul J. Jarabeck, Esquire, Senior Board Prosecutor
- Gregory S. Liero, Esquire, Board Prosecution Liaison
- Sarah E. McNeill, Board Administrator
- Marc Farrell, Deputy Director, Office of Policy, Department of State

ALSO PRESENT:

- Nicole Sidle, Majority Committee Executive Director, House Professional Licensure Committee
- Kari Orchard, Democratic Executive Director, House Professional Licensure Committee
- Ted Mowatt, CAE, Vice President, Wanner Associates, on behalf of Pennsylvania Optometric Association

1 \*\*\*

2 State Board of Optometry

3 May 19, 2022

4 \*\*\*

5 [Pursuant to Section 708(a)(5) of the Sunshine Act,  
6 at 10:00 a.m. the Board entered into Executive  
7 Session with Ariel E. O'Malley, Esquire, Board  
8 Counsel, for the purpose of conducting quasi-judicial  
9 deliberations and to receive the advice of Board  
10 Counsel. The Board returned to open session at 10:30  
11 a.m.]

12 \*\*\*

13 The regularly scheduled meeting of the State  
14 Board of Optometry was held on Thursday, May 19,  
15 2022. Luanne K. Chubb, O.D., F.A.A.O., Chairperson,  
16 called the meeting to order at 10:36 a.m.

17 \*\*\*

18 [Ariel E. O'Malley, Esquire, Board Counsel, reminded  
19 everyone that the meeting was being recorded, and  
20 those who continued to participate were giving their  
21 consent to be recorded.]

22 \*\*\*

23 Roll Call

24 [Chairperson Chubb requested Ms. McNeill take a roll  
25 call of Board members.]

1

\*\*\*

2 Introduction of Audience

3 [Chairperson Chubb requested the introduction of  
4 audience members.]

5

\*\*\*

6 [Chairperson Chubb welcomed Dr. Becker and Dr. Wilcox  
7 back to the State Board of Optometry. She announced  
8 that this was Dr. Boyer's last meeting and thanked  
9 her for her time on the Board.]

10

\*\*\*

11 Approval of Agenda

12 CHAIRPERSON CHUBB:

13 I'd like to call for a motion to  
14 approve today's agenda.

15 DR. BOYER:

16 So moved.

17 CHAIRPERSON CHUBB:

18 Is there a second?

19 DR. BECKER:

20 Second.

21 CHAIRPERSON CHUBB:

22 Roll call vote.

23

24 Dr. Chubb, aye; Acting Commissioner

25 Claggett, aye; Dr. Godfrey, aye; Dr.





1 DR. BOYER:

2 I second.

3 CHAIRPERSON CHUBB:

4 Roll call vote.

5

6 Dr. Chubb, aye; Acting Commissioner  
7 Claggett, aye; Dr. Godfrey, aye; Dr.  
8 Boyer, aye; Tyler Ritchie, aye; Dr.  
9 Becker, aye; Dr. Wilcox, aye.

10

11 Any opposed? Any abstentions? Hearing  
12 none.

13 [The motion carried unanimously.]

14

\*\*\*

15 Report of Acting Commissioner

16 [Arion R. Claggett, Acting Commissioner, Bureau of  
17 Professional and Occupational Affairs, informed Board  
18 members that the department is currently in the  
19 process of replacing the Pennsylvania Licensing  
20 System (PALS) and should have the new system  
21 identified and in place by the end of 2023.

22 Chairperson Chubb requested further information  
23 concerning the replacement.

24 Acting Commissioner Claggett stated the  
25 department has not identified a replacement, but the

1 goal is to have more control over the new system  
2 rather than reaching out to vendors. He explained  
3 that it is more cost effective to replace the system  
4 than to continuously pay for developments.]

5 \*\*\*

6 Report of Board Counsel - Legislative Report  
7 [Ariel E. O'Malley, Esquire, Board Counsel, referred  
8 to the 2021-2022 Legislative Report for the Board's  
9 information. She reported no changes since last time  
10 but would provide any updates on the next agenda.]

11 \*\*\*

12 Report of Board Chair  
13 [Luanne K. Chubb, O.D., F.A.A.O., Chairperson,  
14 addressed Board vacancies and encouraged anyone who  
15 is interested in serving as a Board member to contact  
16 the Board office to discuss the process.

17 Chairperson Chubb announced that she would be  
18 attending the Association of Regulatory Boards of  
19 Optometry (ARBO) Meeting virtually in June. She  
20 stated she continues to serve on the Accreditation  
21 Council on Optometric Education (ACOE) for residency  
22 programs and optometry technician programs. She  
23 noted review of any actions, approvals, or  
24 recommendations to programs could be found on the  
25 American Optometric Association website.

1 Dr. Becker asked whether hybrid meetings are  
2 going to continue or change to in person in the  
3 future.

4 Ms. O'Malley stated there is always going to be  
5 some kind of hybrid system because legislation passed  
6 allowing the use of virtual capabilities to have a  
7 quorum and for people to observe their meetings.

8 Chairperson Chubb suggested providing  
9 clarification in the minutes for people with  
10 continuing education questions concerning the waiver  
11 rollback mailing.

12 Ms. O'Malley noted that it was already stated in  
13 the minutes by Commissioner Johnson regardless of the  
14 waivers, additional information, and the rollbacks  
15 that all education for the upcoming renewal for  
16 optometry could be via virtual means.

17 Chairperson Chubb expressed concern whether the  
18 information is still posted on the website. She  
19 noted POA sent it to their members after the notice  
20 was received but everybody is not a member of the POA  
21 and it should be on their website as well.

22 Ms. O'Malley noted Mr. Jarabeck confirmed that it  
23 was on their website.]

24 \*\*\*

25 Report of Regulatory Counsel

1 [Ariel E. O'Malley, Esquire, Board Counsel, referred  
2 to Act 41, noting prior Board discussion at the  
3 Regulatory Committee Meeting. She stated that Act 41  
4 would remove some of the barriers for people trying  
5 to obtain a license who already hold a license  
6 somewhere else. She mentioned receiving comments  
7 from the House Professional Licensure Committee and  
8 stylistic and Regulatory Analysis Form (RAF) issues  
9 from the Independent Regulatory Review Commission  
10 (IRRC).

11 Ms. O'Malley referred the House Professional  
12 Licensure Committee comments for § 23.27a(a)(1)(i),  
13 where the burden is put on the applicant to submit a  
14 copy of the current applicable law, regulations, or  
15 other rule governing the licensure, certification,  
16 registration, or permit requirements and scope of  
17 practice in the jurisdiction that issued the license,  
18 certificate, registration, or permit.

19 Ms. O'Malley informed Board members that the  
20 House Professional Licensure Committee felt the  
21 responsibility should be removed from the applicant  
22 and put on Board counsel. She noted discussion with  
23 the committee and leaving the language the way it was  
24 with the onus on the applicant for expediency. She  
25 discussed the time and money it would take counsel,

1 especially if coming from a foreign country, which  
2 would get factored into the application fee and put  
3 back on every single applicant.

4 Ms. O'Malley also mentioned that case law says it  
5 is the licensee's responsibility to be aware of the  
6 laws, rules, and regulations that govern their  
7 practice. She noted it is also the applicant's  
8 burden to prove to the Board that the applicant meets  
9 the requirements, not Board counsel to establish the  
10 applicant meets the Board's requirements.

11 Ms. O'Malley referred to § 23.27a(a)(4), where an  
12 applicant must not have any discipline by the  
13 jurisdiction that issued the license, certificate,  
14 registration, or permit. She noted the committee  
15 recommended clarifying the section to specify the  
16 types of discipline. She explained that it would be  
17 difficult to enumerate the types of discipline  
18 because each state has different names for the types  
19 of disciplines.

20 Ms. O'Malley stated it would make sense to use  
21 the language directly from Act 41 where it reads,  
22 "Holds a license in good standing and has not been  
23 disciplined by the jurisdiction that issued the  
24 license, certificate, registration, or permit unless  
25 the Board determines, in its discretion after

1 considering the following factors, that the  
2 discipline should not be an impediment to the  
3 granting of a license, certificate, registration, or  
4 permit to practice in this Commonwealth.”

5 Ms. O’Malley reported the factors that were used  
6 came from Act 53, like the number of disciplinary  
7 actions and what the applicant had done since then;  
8 such as taken extra continuing education (CE) to  
9 compensate and fix their disciplinary action; is the  
10 disciplinary action old and has the person matured;  
11 or any other factors to help understand whether or  
12 not the Board could look past that disciplinary  
13 action, where the applicant learned from that mistake  
14 and the Board could grant them a license.

15 Ms. O’Malley referred to § 23.27b(b)(1), which  
16 would give the Board the authority to issue a  
17 provisional license for less than a year. She noted  
18 the committee felt it was unclear under what  
19 circumstances the Board would need to exercise this  
20 authority and asked why the Board would issue a  
21 license for less than a year because it is not  
22 addressed in Act 41 of 2019.

23 Ms. O’Malley noted that the language was taken  
24 out and moved back similarly to what was in the act  
25 itself and left it up to one year after issuance of

1 the provisional license after review with the  
2 Regulatory Committee.

3 Ms. O'Malley referred to the fourth comment,  
4 where the House Professional Licensure Committee  
5 stated all of the ways were listed that the  
6 provisional license terminated but did not have an  
7 expiration date, so included the provisional  
8 endorsement license expires at number (3).

9 Ms. O'Malley addressed the House Professional  
10 Licensure Committee's final comment and referred to  
11 § 23.27(b)(d), where it states that the Board will  
12 not issue subsequent provisional licenses after the  
13 provisional licenses expire. She stated the  
14 committee believed the section is vague, and Act 41  
15 of 2019 does not specifically state that the Board  
16 shall only issue one provisional license. She noted  
17 the committee recommended the section be amended to  
18 correct the unintended harm of limiting provisional  
19 licenses and further suggested incorporating a time  
20 frame to reapply.

21 Ms. O'Malley noted the Board's response in the  
22 preamble did not agree because the whole purpose of  
23 the provisional license was supposed to give  
24 applicants the opportunity to meet whatever was  
25 lacking when the applicant filed their application.

1 She stated their requirements were to be compared  
2 with the Commonwealth's requirements to determine  
3 whether the requirements were substantially  
4 equivalent, where the applicant would be given a  
5 provisional license if information was missing and  
6 then receive a full license after that was completed.

7 Ms. O'Malley explained that the regulations allow  
8 someone to ask for an extension if the applicant  
9 cannot complete the requirements in a year with the  
10 provisional license and referred to 23.27b(b)(2),  
11 where upon a written request and a showing of good  
12 cause gives the Board the authority to extend the  
13 provisional license for another year. She commented  
14 that giving multiple renewals of a provisional  
15 license defeats the purpose. She stated it was not  
16 supposed to be its own licensure class and kept it  
17 the same.

18 Ms. O'Malley stated it was explained in the  
19 preamble that someone really close to meeting  
20 licensure requirements were given the provisional  
21 license and could request one additional year.

22 Ms. O'Malley informed Board members that she is  
23 addressing the questions made by IRRC, including a  
24 typographical error and additions to the RAF.]

25 DR. WILCOX:

1 I motion that we approve the  
2 regulation.

3 DR. BECKER:

4 Second.

5 CHAIRPERSON CHUBB:

6 Roll call vote.

7  
8 Dr. Chubb, aye; Acting Commissioner  
9 Claggett, aye; Dr. Godfrey, aye; Dr.  
10 Boyer, aye; Tyler Ritchie, aye; Dr.  
11 Becker, aye; Dr. Wilcox, aye.

12  
13 Any opposed? Any abstentions? Hearing  
14 none.

15 [The motion carried unanimously.]

16 \*\*\*

17 Report of Board Administrator - No Report

18 \*\*\*

19 Old Business

20 [Kimberly F. Boyer, O.D., Secretary, addressed the  
21 Continuous Assessment Program (CAP) for continuing  
22 education. She noted reaching out to the American  
23 Board of Optometry for a list of states that approved  
24 the program and found Pennsylvania on the list in  
25 error. She mentioned the Board approves those on a

1 case-by-case basis.

2 Dr. Boyer spoke with April Wilhelm from the  
3 American Board of Optometry and found their board is  
4 currently working with the Council on Optometric  
5 Practitioner Education (COPE) to get the CAP  
6 assessments approved. She stated it was hoped to get  
7 their first CAP CE approved in September, which would  
8 make it unnecessary for the Board to delineate this  
9 as approved CE because it would be automatic if it  
10 becomes COPE approved.

11 Dr. Boyer recommended allowing the process to  
12 occur on its own rather than creating rules to follow  
13 in Pennsylvania.

14 Chairperson Chubb agreed and believed it should  
15 go through the ARBO process.

16 Dr. Boyer mentioned receiving a CAP assessment  
17 sample, noting she would not have a problem approving  
18 3 credits based on the sample.

19 Dr. Godfrey reported taking the CAP assessments  
20 several times and believed them to be a legitimate  
21 form of continuing education. He commented that  
22 individuals are only able to do half of their credits  
23 in that form and are going to be two-year licensure.

24 He noted the CAP assessments would be available 6  
25 times, so individuals could get 18 credits if 3 were

1 allowed for each.

2 Dr. Godfrey commented that the Board should see  
3 what ARBO comes up with and how that process works  
4 out. He explained CAP assessments as lengthy  
5 articles, where basically half of the exam would be  
6 questions specific to those articles. He noted it to  
7 be an open book exam, and the time it takes to  
8 complete the questions depends on an individual's  
9 expertise on a particular topic.

10 Chairperson Chubb reported also taking CAP  
11 assessments, noting a lot of research is required  
12 depending on the depth of the questions. She  
13 commented that she would not be opposed to 3 hours.]

14 \*\*\*

15 New Business

16 CHAIRPERSON CHUBB:

17 I would like to nominate Dr. Wilcox to  
18 the position of Board secretary.

19 Is there a second?

20 DR. GODFREY:

21 I second that.

22 CHAIRPERSON CHUBB:

23 Roll call vote.

24

25 Dr. Chubb, aye; Acting Commissioner

1 Claggett, aye; Dr. Godfrey, aye; Dr.  
2 Boyer, aye; Dr. Becker, aye; Dr.  
3 Wilcox, aye; Tyler Ritchie, aye.

4  
5 Any opposed? Any abstained?

6 [The motion carried unanimously.]

7 \*\*\*

8 CHAIRPERSON CHUBB:

9 For the Continuing Education Committee,  
10 I would like to nominate Dr. Becker to  
11 that committee.

12 Is there a second?

13 DR. GODFREY:

14 I second.

15 CHAIRPERSON CHUBB:

16 Roll call vote.

17  
18 Dr. Chubb, aye; Acting Commissioner  
19 Claggett, aye; Dr. Godfrey, aye; Dr.  
20 Boyer, aye; Tyler Ritchie, aye; Dr.  
21 Becker, aye; Dr. Wilcox, aye.

22  
23 Any opposed? Hearing none. Any  
24 abstained?

25 [The motion carried unanimously.]

1 \*\*\*

2 [Luanne K. Chubb, O.D., F.A.A.O., Chairperson,  
3 informed Board members that the Pharmaceutical  
4 Committee works with Dr. Godfrey to review the list  
5 of approved medications and works with Ms. O'Malley  
6 in presenting medications the Board wishes to add.

7 Dr. Godfrey thanked Dr. Boyer for her time on the  
8 committee and noted the workload of the committee to  
9 be light at this point.

10 The Board tabled the Pharmaceutical Committee  
11 nomination till the next Board meeting.

12 Ms. O'Malley informed Board members that any  
13 pharmaceutical issues that develop between now and  
14 the next meeting could be run by all Board members.

15 Chairperson Chubb mentioned she has been tracking  
16 medications in a clinical trial phase III, and there  
17 is not a lot coming out in the next month or so.

18 Dr. Boyer informed Board members of a scam  
19 reported to her by another doctor of optometry (OD)  
20 of somebody posing as the Board. She requested  
21 clarification as to whether the Board would ever call  
22 anyone and whether an investigator would initiate  
23 their investigation via a phone call.

24 Ms. O'Malley suggested Dr. Boyer email her the  
25 details. She commented that it was easy to find

1 information online and people have been creative,  
2 where it appears the Board is calling. She noted  
3 documents are normally sent through traditional mail  
4 and email is used sometimes but recommended  
5 individuals call the Board to verify a call was made.  
6 She stated investigators sometimes will attempt to  
7 meet with the individual to discuss a matter.

8 Mr. Jarabeck further explained that investigators  
9 will make phone calls to set up a time to meet for an  
10 investigation or if a witnesses is unable to meet in  
11 person. He stated licensees who believed something  
12 was wrong should stop the phone call and call the  
13 Board offices. He noted the ability to let  
14 individuals know whether something is legitimate or  
15 not after receiving the report. He commented that  
16 there would be nothing wrong with stopping and  
17 restarting an investigation if a licensee feels  
18 something is off when receiving phone calls.

19 Dr. Becker thanked Ms. McNeill for her efforts  
20 and assistance with the hybrid meetings and for her  
21 assistance renewing his license.]

22 \*\*\*

23 Miscellaneous

24 [Luanne K. Chubb, O.D., F.A.A.O., Chairperson,  
25 referred to the request for the Pennsylvania State

1 Board of Optometry to sponsor Dr. Ken Yongwoo Baek to  
2 sit for the National Board of Examiners in Optometry  
3 (NBEO) exam. She informed Board members that he is a  
4 Korean-Board certified ophthalmologist who immigrated  
5 to the United States from South Korea and is  
6 currently a United States citizen who would like to  
7 pursue a career in optometry in the United States.

8 Dr. Boyer commented that the Pennsylvania College  
9 of Optometry at Salus has an accelerated  
10 international optometric degree program that can be  
11 completed, along with many other optometry schools in  
12 other states. She stated individuals should have to  
13 pass the accelerated international optometric  
14 education first, rather than the Board sponsoring  
15 someone to take the NBEO, and Board members agreed.

16 Chairperson Chubb noted the schools also vet the  
17 credentials the person is submitting for thoroughness  
18 and completion.]

19 CHAIRPERSON CHUBB:

20 Could we have a motion on his request  
21 for NBEO sponsorship?

22 DR. BOYER:

23 I move to deny his request for NBEO  
24 sponsorship by the Pennsylvania State  
25 Board of Optometry.

1 DR. BECKER:

2 I second it.

3 CHAIRPERSON CHUBB:

4 Roll call vote.

5

6 Dr. Chubb, aye; Acting Commissioner  
7 Claggett, aye; Dr. Godfrey, aye; Dr.  
8 Boyer, aye; Tyler Ritchie, aye; Dr.  
9 Becker, aye; Dr. Wilcox, aye.

10

11 Any opposed? Any abstentions? Hearing  
12 none.

13 [The motion carried unanimously.]

14

\*\*\*

15 Public Comment Period

16 [Luanne K. Chubb, O.D., F.A.A.O., Chairperson,  
17 thanked Dr. Boyer for being part of the Board for the  
18 past four years.

19 Dr. Boyer noted being grateful for the  
20 experience.

21 Ted Mowatt, CAE, Vice President, Wanner  
22 Associates, on behalf of Pennsylvania Optometric  
23 Association, congratulated Dr. Boyer on her  
24 successful term.

25 Chairperson Chubb referred to the Pharmaceutical

1 Committee matter again and offered to have any issues  
2 that may arise be brought to her attention but asked  
3 whether the Board technically needs to have a  
4 Pharmaceutical Committee.

5 Dr. Boyer stated Dr. Godfrey is the committee,  
6 but his term ends in July. He is the pharmaceutical  
7 committee. Until his successor qualifies, there is  
8 no committee.

9 Chairperson Chubb asked whether a vote should be  
10 taken for a committee in the event there is a lapse  
11 because it happened with Dr. Wilcox and Dr. Becker.]

12 CHAIRPERSON CHUBB:

13 Could we have a vote for a nomination  
14 for the Pharmaceutical Committee?

15 DR. BOYER:

16 I move that we install Dr. Chubb as the  
17 Pharmaceutical Committee.

18 DR. GODFREY:

19 I second it.

20 CHAIRPERSON CHUBB:

21 Roll call vote.

22  
23 Dr. Chubb, aye; Acting Commissioner  
24 Claggett, aye; Dr. Godfrey, aye; Dr.  
25 Boyer, aye; Tyler Ritchie, aye; Dr.

1                   Becker, aye; Dr. Wilcox, aye.

2

3                   Any opposed? Any abstentions? Hearing  
4                   none.

5 [The motion carried unanimously.]

6

\*\*\*

7 [Pursuant to Section 708(a)(5) of the Sunshine Act,  
8 at 11:48 a.m. the Board entered into Executive  
9 Session with Ariel E. O'Malley, Esquire, Board  
10 Counsel, for the purpose of conducting quasi-judicial  
11 deliberations and to receive the advice of Board  
12 Counsel. The Board returned to open session at 12:04  
13 p.m.]

14

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15 CHAIRPERSON CHUBB:

16                   Under the Report of Board Prosecutor,  
17                   for Case No. 19-52-014135, is there a  
18                   motion?

19 DR. GODFREY:

20                   I move to accept the Consent Agreement  
21                   at Case No. 19-52-014135 as outlined  
22                   earlier and presented to the Board by  
23                   Attorney Greg Liero.

24 CHAIRPERSON CHUBB:

25                   Is there a second?

1 DR. BECKER:

2 I'll second.

3 CHAIRPERSON CHUBB:

4 All those in favor?

5

6 Dr. Chubb, aye; Acting Commissioner  
7 Claggett, aye; Dr. Godfrey, aye; Dr.  
8 Boyer, aye; Tyler Ritchie, nay; Dr.  
9 Becker, aye; Dr. Wilcox, nay.

10

11 Opposed? There were two noes. Any  
12 abstentions? Hearing none.

13 [The motion carried. Tyler Ritchie and Denise Wilcox  
14 opposed the motion.]

15

\*\*\*

16 Adjournment

17 DR. BOYER:

18 I move to adjourn the meeting.

19 DR. BECKER:

20 Second.

21 CHAIRPERSON CHUBB:

22 All in favor? The meeting is  
23 adjourned.

24

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25 [There being no further business, the State Board of

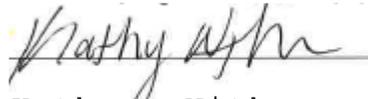
1 Optometry Meeting adjourned at 12:07 p.m.]

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CERTIFICATE

I hereby certify that the foregoing summary minutes of the State Board of Optometry meeting, was reduced to writing by me or under my supervision, and that the minutes accurately summarize the substance of the State Board of Optometry meeting.



Kathryn Witherow,

Minute Clerk

Sargent's Court Reporting  
Service, Inc.

STATE BOARD OF OPTOMETRY  
REFERENCE INDEX

May 19, 2022

	TIME	AGENDA
1		
2		
3		
4		
5		
6		
7		
8		
9	10:00	Executive Session
10	10:30	Return to Open Session
11		
12	10:36	Official Call to Order
13		
14	10:36	Roll Call/Introduction of Audience
15		
16	10:38	Approval of Agenda
17		
18	10:38	Approval of Minutes
19		
20	10:41	Report of Board Prosecutors
21		
22	10:58	Report of Acting Commissioner
23		
24	10:59	Report of Board Counsel
25		
26	11:00	Report of Board Chair
27		
28	11:04	Report of Regulatory Counsel
29		
30	11:19	Old Business
31		
32	11:28	New Business
33		
34	11:37	Miscellaneous
35		
36	11:41	Public Comment Period
37		
38	11:48	Executive Session
39	12:04	Return to Open Session
40		
41	12:04	Motion
42		
43	12:07	Adjournment
44		
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